

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TYLER M. HORRELL,

Defendant.

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CRIMINAL NO. 99-40006-GPM-01

MEMORANDUM AND ORDER

MURPHY, District Judge:

Before the Court is Defendant Tyler M. Horrell's motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) (Doc. 175), Mr. Horrell's motion to dismiss his attorney and for new counsel (Doc. 179), and counsel's motion to withdraw as attorney and for a "no merits" statement (Doc. 181).

The Court has fully considered Mr. Horrell's motion for reduction and counsel's motion to withdraw. The amount of crack cocaine attributed to Mr. Horrell was 283.4 grams. Mr. Horrell received the benefit of a reduction pursuant to the 2008 retroactive sentencing guidelines, reducing his sentencing range from 235 to 293 months to 188 to 235 months. Mr. Horrell was resentenced to 210 months (Doc. 154). The new crack cocaine guideline amendment, retroactive as of November 1, 2011, would result in a base offense level of 32. Mr. Horrell receives a two-level enhancement for obstruction of justice, resulting in a total offense level of 34 (with his unaffected criminal history category remaining III). An offense level of 34 and criminal history category III yield a 188 to 235 sentencing guideline range. This is the same guideline range effective when Mr.

Horrell was re-sentenced by the Court on March 23, 2009.

The 2011 Fair Sentencing Act amendment does not change Mr. Horrell's guideline sentencing range. Therefore, he is not eligible for reduction of his sentence. *See United States v. Taylor*, 627 F.3d 674, 676 (7th Cir. 2010) ("Relief under the statute [18 U.S.C. § 3582(c)(2)] is not available when a retroactive amendment 'does not have the effect of lowering the defendant's applicable guideline range.'" *citing* United States Sentencing Guideline § 1B1.10(a)(2)(B)). Counsel's motion to withdraw and for a "no merit" statement is thus **GRANTED**, Mr. Horrell's motion for reduction of sentence pursuant to 18 U.S.C. § 3582 is **DENIED**, and Mr. Horrell's motion for new counsel is **MOOT**.

IT IS SO ORDERED.

DATED: December 8, 2011

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge